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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,178	02/27/2004	Chia-Chi Teng	249279US0CONT	4605
22850	7590	11/16/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.			BOUSIKARIS, LEONIDAS	
1940 DUKE STREET			ART UNIT	
ALEXANDRIA, VA 22314			PAPER NUMBER	

2872
DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/787,178

Applicant(s)

TENG ET AL.

Examiner

Leò Boutsikaris

Art Unit

2872



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/27/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 11-16 are objected to because of the following informalities: in claim 11, line 3, "sulfurodamine" should be changed to "sulforhodamine". Claims 12-16 inherit the deficiency of claim 11 from which they depend. Appropriate correction is required.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1-5, 6-10 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-5 of prior U.S. Patent No. 6,229,252. This is a double patenting rejection.

Claims 17-24 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 7-10 of prior U.S. Patent No. 6,229,252. This is a double patenting rejection.

Claims 11-16 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 11-13 of prior U.S. Patent No. 6,229,252. This is a double patenting rejection.

Claims 25-29 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 19-23 of prior U.S. Patent No. 6,229,252. This is a double patenting rejection.

Allowable Subject Matter

Art Unit: 2872

Claims 1-29 are allowable over the prior art of record for at least the reason that even though the prior art discloses a filter used in conjunction with a CRT screen for improving the contrast performance of the screen, comprising a mixture of dyes and exhibiting absorption peaks in the region between 470 and 510 nm, and between 550 and 610 nm, the prior art fails to teach or reasonably suggest, regarding claims 1-10, 25-29, a filter comprising a dye having substantially the absorbance spectrum as shown in Fig. 1, a dye having substantially the absorbance spectrum as shown in Fig. 2, Rhodamine 101, and Luxol Fast Blue MBSN, and regarding claims 11-24, a bandpass filter comprising dyes Fluorescein amine isomer 1, Phloxine B, Sulfurodamine 101, and Luxol Fast Blue MBSN, as set forth by the claimed combination.

Iwasaki (US 5,200,667, Fig. 5) discloses a filter comprising a mixture of dyes and having absorbance spectrum with peaks falling approximately in the regions shown by Figs. 1 and 2.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Leo Boutsikaris whose telephone number is 571-272-2308.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Leo Boutsikaris, Ph.D.
Primary Patent Examiner, AU 2872
November 12, 2004

